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IN THE

Supreme Court of the United States

OCTOBER TERM, 1972

72-1229

ALYESKA PIPELINE SERVICE COMPANY, PETITIONER

v.

THE WILDERNESS SOCIETY, ET AL.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

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OPINIONS BELOW

The opinion of the District Court is not yet reported but appears as an appendix to the petition of the Solicitor General. (Appendix D at p. 179a.) The opinion of the Court of Appeals is unreported as well and also appears as an appendix to the petition filed by the Solicitor General. (Appendix A, pp. 1a-137a.)

JURISDICTION

The judgment of the Court of Appeals was entered on February 9, 1973, and is reproduced as an appendix to the petition filed by the Solicitor General. (Appendix B, pp. 139a-141a.) The jurisdiction of this Court rests on 28 U.S.C. § 1254(1).

QUESTIONS PRESENTED

We adopt the statement of questions presented which appears in the petition of the Solicitor General.

STATUTES INVOLVED

We concur in the designation of the statutes involved which appears in the petition filed by the Solicitor General.

STATEMENT

We adopt the statement which is set forth in the petition of the Solicitor General.

REASONS FOR GRANTING THE WRIT

Alyeska generally supports the reasons for granting certiorari which are set forth in the petitions filed by the Solicitor General on behalf of the federal defendants and by counsel for the State of Alaska. These petitions fully elaborate the compelling governmental interests, both national and state, which make this case appropriate for review by this Court.

Alyeska acknowledges that these governmental interests present the principal reasons for granting certiorari. However, there are in addition significant private interests adversely affected by the decision of the Court of Appeals. These interests too are of sufficient magnitude to warrant further review.

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Through the first quarter of calendar 1973, expenditures and commitments of funds for the operation of Alyeska Pipeline Service Company totaled more than $400 million. In addition to funding these expenses of Alyeska, the companies which own Alyeska have invested approximately an additional $1 billion in leasing, exploration and development costs relating to the Prudhoe Bay producing area. Furthermore, other companies which are not owners of Alyeska Pipeline Service Company, but which have interests in leases in the Prudhoe Bay area, have expended several hundred million dollars for lease, exploration and development costs. All of these companies are dependent upon the proposed pipeline as a means for transportation of any oil which has been discovered.

Apart from the expenses already incurred for leases, exploration, development and pipeline planning, delay in itself represents a substantial cost penalty for the participating companies. Alyeska estimates that one year of delay in pipeline construction increases the cost of the pipeline by approximately $180 million. The ten months which have elapsed since the Secretary's decision have thus increased costs by $150 million; each week of further delay will increase costs by another $3.5 million.

The companies which are participating in exploration and development of the important petroleum reserves on the North Slope of Alaska have made these enormous expenditures with, we submit, a wholly reasonable expectation that it would be possible to obtain some return on this investment once the Secretary of the Interior had satisfied himself concerning the environmental protection features of the proposed pipe-

line and possible alternative transportation systems. The companies involved also assumed, again reasonably, that pipeline construction activities would be permitted in accordance with practices familiar to the industry for at least 50 years—that is, that licenses to use federal lands for temporary purposes incident to construction would be available to the extent of reasonable requirements compelled by the realities of pipeline construction.

As the petition of the Solicitor General notes, and as the Court of Appeals itself conceded, the holding below not only would preclude the present authorization of the trans-Alaska pipeline, but would make it impossible to build or maintain any large diameter pipeline across public lands. A partial industry survey by Alyeska of ongoing and announced oil, gas and petroleum products pipeline projects indicates that nine such projects involving approximately 2,200 miles of pipeline and costing approximately $235 million, would be threatened if the decision below is permitted to stand.

These serious impacts on private industry are an additional reason for granting the petitions for a writ of certiorari, and for granting the motion of the Solicitor General for expedited consideration, a motion which Alyeska joins and supports.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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March 1973